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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY:

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DEPUTY

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11 SAN DIEGO COUNTY REGIONAL AIRPORT
12 AUTHORITY

13 UNITED STATES DISTRICT COURT
14 SOUTHERN DISTRICT OF CALIFORNIA

15 JOSE HERNANDEZ,
16 Plaintiff,

17 v.

18 SAN DIEGO COUNTY
19 REGIONAL AIRPORT
20 AUTHORITY, a public entity; and
DOES 1 through 12, inclusive,

21 Defendants.

CASE NO. 08 CV 0184 L CAB

CERTIFICATE OF SERVICE OF
NOTICE TO ADVERSE PARTY OF
REMOVAL TO FEDERAL COURT

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PAUL, PLEVIN,
SULLIVAN &
CONNAUGHTON LLP

CERTIFICATE OF SERVICE

1 I, Christie Brzezinski, certify and declare as follows:

2 I am over the age of 18 years and not a party to this action.

3 My business address is Paul, Plevin, Sullivan & Connaughton, LLP, which is
4 located at 401 B Street, 10th Floor, San Diego, CA 92101, which is located in the
5 City, County, and State where the mailing described below took place.

6 On January 30, 2008, I caused to be personally served a copy of the Notice
7 to Adverse party of Removal to Federal Court dated January 30, 2008, a copy of
8 which is attached to this Certificate.


9 I declare under penalty of perjury that the foregoing is true and correct.

10

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Executed on January 30, 2008

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Christie Brzezinski

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**SAN DIEGO COUNTY REGIONAL AIRPORT
AUTHORITY**

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

JOSE HERNANDEZ,
Plaintiff,
v.

SAN DIEGO COUNTY REGIONAL
AIRPORT AUTHORITY, a public entity;
and DOES 1 through 12, inclusive,
Defendants.

CASE NO. GIC 871979

PROOF OF PERSONAL SERVICE

Dept:	75
Judge:	Hon. Richard E. Strauss
Complaint Filed:	September 1, 2006
Trial Date:	January 4, 2008

1 I, the undersigned, certify and declare that I am a citizen of the United States, over the age
2 of eighteen, employed in the County of San Diego, State of California, and not a party to the
3 within-entitled action. My business address is P.O. Box 3969, San Diego, CA 92163.

4 On January 30, 2008, I served a true copy of the within:

5 • **NOTICE TO ADVERSE PARTY OF REMOVAL TO FEDERAL COURT**
6 by delivering for personal service to the following:

7 Cathryn Chinn, Esq.
8 1901 First Avenue, Suite 400
9 San Diego, CA 92101
Tel: 619-295-4190 / Fax: 619-295-9529
Attorney for Plaintiff Jose Hernandez

10 I hereby certify that I am employed by CalExpress Messenger Service, San Diego,
11 California, at whose direction the personal service was made.

12 Executed January 30, 2008, at San Diego, California.

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16 **DIVERSIFIED LEGAL SERVICES**
17 **MESSENGER**
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AUTHORITY**

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

JOSE HERNANDEZ,

Plaintiff,

v.

**SAN DIEGO COUNTY REGIONAL
AIRPORT AUTHORITY, a public entity;
and DOES 1 through 12, inclusive,**

Defendants.

CASE NO. GIC871979

**NOTICE TO ADVERSE PARTY OF
REMOVAL TO FEDERAL COURT**

Dept: 75
Judge: Hon. Richard E. Strauss
Complaint Filed: September 1, 2006
Trial Date: January 4, 2008

**EXEMPT FROM FEES
GOVT. CODE § 6103**

1 TO PLAINTIFF JOSE HERNANDEZ AND HIS ATTORNEYS OF RECORD AND TO
2 THE CLERK OF THE ABOVE-ENTITLED COURT:

3 PLEASE TAKE NOTICE that a Notice of Removal of this action was filed in the United
4 States District Court for the Southern District of California on January 30, 2008.

5 A copy of that Notice of Removal is attached to this notice as Exhibit A.

6
7 Dated: January 30, 2008

PAUL, PLEVIN, SULLIVAN &
CONNAUGHTON LLP

9
10 By: 

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Attorneys for Defendant

SAN DIEGO COUNTY REGIONAL AIRPORT
AUTHORITY

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

JOSE HERNANDEZ,

Plaintiff,

v.

SAN DIEGO COUNTY
REGIONAL AIRPORT
AUTHORITY, a public entity; and
DOES 1 through 12, inclusive,

Defendants.

CASE NO.

NOTICE OF REMOVAL OF ACTION:
UNDER 28 U.S.C. § 1442(B)
(FEDERAL QUESTION)

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1 TO THE CLERK OF THE ABOVE-ENTITLED COURT:

2 PLEASE TAKE NOTICE that defendant San Diego County Regional
3 Airport Authority ("the Authority") hereby removes the above-referenced case
4 from the Superior Court of the State of California, County of San Diego, to the
5 United States District Court for the Southern District of California. The state court
6 action is a civil action that this Court has original jurisdiction to decide under
7 28 U.S.C. section 1331 (federal question jurisdiction) and is one that may be
8 removed to this Court by the Authority pursuant to 28 U.S.C. section 1441. The
9 specific basis for removal of this action is as follows:

10 1. On September 1, 2006, Plaintiff Jose Hernandez ("Plaintiff") filed an
11 action in the Superior Court of the State of California, County of San Diego,
12 Central Division, entitled *Jose Hernandez v. San Diego Regional Airport Authority*
13 *and Does 1 through 12, Inclusive*, as Case Number GIC 871979.

14 2. On September 5, 2006, the Authority was served with a copy of the
15 complaint for damages, a summons from the state court, a notice of case
16 assignment, and alternative dispute resolution process information. A true and
17 correct copy of the complaint is attached hereto as Exhibit 4. This original
18 complaint asserted causes of action based only on California state law.

19 3. On October 5, 2006, the Authority filed a demurrer and motion to
20 strike portions of the complaint. True and correct copies of the moving papers are
21 attached hereto as Exhibits 5-8. Before the matter could be heard, Plaintiff filed a
22 First Amended Complaint ("FAC") and served the FAC on December 11, 2006.
23 The FAC asserted causes of action based only on California state law. A true and
24 correct copy of the FAC is attached hereto as Exhibit 11.

25 4. On January 10, 2007, the Authority filed a demurrer and motion to
26 strike portions of Plaintiff's FAC. True and correct copies of the moving papers
27 are attached hereto as Exhibits 14-18. In lieu of ruling on the merits of the
28 Authority's demurrer and motion to strike, the Court deemed Plaintiff's Second

1 Amended Complaint ("SAC") (submitted and served with Plaintiff's Opposition to
2 the Authority's moving papers), filed. True and correct copies of Plaintiff's
3 moving papers and the SAC are attached hereto as Exhibits 19-21. The SAC
4 asserted causes of action based only on California state law.

5 5. On April 19, 2007, the Authority filed a demurrer and motion to strike
6 portions of Plaintiff's SAC. True and correct copies of the moving papers are
7 attached hereto as Exhibits 24-28. The Authority's demurrer and motion to strike
8 were overruled, and the Authority filed its answer to the SAC on May 29, 2007. A
9 true and correct copy of the Authority's answer to the SAC is attached hereto as
10 Exhibit 37.

11 6. On August 31, 2007, the Authority filed its motion for summary
12 judgment or, in the alternative, summary adjudication as to the SAC. True and
13 correct copies of the moving papers are attached hereto as Exhibits 38-55.

14 7. On December 14, 2007, the Court granted the Authority's motion for
15 summary adjudication as to the only cause of action in the SAC but granted
16 Plaintiff leave to file a Third Amended Complaint ("TAC").

17 8. Plaintiff served the Authority with the TAC on December 28, 2007,
18 via United States Postal Mail, naming the San Diego Regional Airport Authority
19 and Thella Bowens, individually, as defendants and asserting for the first time
20 claims arising under federal law, in particular, 42 U.S.C. section 1983. A true and
21 correct copy of Plaintiff's TAC is attached hereto as Exhibit 95. The Authority
22 received the TAC on December 31, 2007.

23 9. The Authority filed an answer to the TAC on January 29, 2008. A
24 true and correct copy of the answer is attached hereto as Exhibit 96.

25 10. Pursuant to 28 U.S.C. section 1446(a), all process, pleadings, and
26 orders served on the Authority are attached hereto and described in the
27 accompanying Index of Exhibits.

28 ///

1 11. This action is a civil action that this Court has original jurisdiction to
 2 decide under 28 U.S.C. section 1331, and is one which may be removed to this
 3 Court by the Authority pursuant to the provisions of 28 U.S.C. section 1441(b)
 4 because, as alleged in the TAC, Plaintiff's sole cause of action arises under 42
 5 U.S.C. section 1983:

6 This action arises under 42 U.S.C. section 1983, which
 7 provides that every "person" who, under color of any
 8 statute ordinance, regulation, custom, or usage of any
 9 State subjects, or "causes to be subjected," any person to
 10 the deprivation of any federally protected rights,
 11 privileges, or immunities shall be civilly liable to the
 12 injured party; and the federal Constitution due process
 13 clause of the Fourteenth Amendment; and violations of
 14 the provisions of the California Constitution, Article I,
 15 section 7, subdivisions (a) and (b), Article I section 26,
 16 et. seq., including, but not limited to violation of the
 17 Plaintiff's due process liberty interest by failing to
 18 provide him with a timely hearing and denial of the equal
 19 protection of the laws. (TAC ¶ 1)

14 12. Defendant Thella Bowens has not yet been served with the TAC.

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1 13. On January 30, 2008, a copy of this notice is being served on Plaintiff
2 and is being filed with the Clerk of the Superior Court for the State of California
3 for the County of San Diego.

4
5 Dated: January 30, 2008

PAUL, PLEVIN, SULLIVAN &
CONNAUGHTON LLP

6
7
8 By: 

FRED M. PLEVIN
SANDRA L. MCDONOUGH
ALBERT R. LIMBERG
Attorneys for Defendant
SAN DIEGO COUNTY
REGIONAL AIRPORT
AUTHORITY

Index of Exhibits

<u>Description</u>	<u>Exh</u>	<u>Pages</u>
Complaint / Claim	1	6-38
Summary Of Complaint & Causes Of Action	2	39-44
Summons; Civil Case Cover Sheet; Notice Of Case Assignment; ADR Package	3	45-50
Complaint	4	51-82
Notice Of Hearing On Demurrer And Demurrer To Plaintiff's Complaint	5	83-86
Notice Of Motion And Motion To Strike Plaintiff's Complaint	6	87-120
Defendant San Diego County Regional Airport Authority's Demurrer To Plaintiff's Complaint	7	121-124
Memorandum Of Points And Authorities In Support Of Defendant San Diego County Regional Airport Authority's Demurrer And/Or Motion To Strike	8	125-144
Plaintiff's Opposition To Defendant San Diego County Regional Airport Authority's Demurrer And/Or Motion To Strike	9	145-159
Plaintiff's Opposition To Defendant San Diego County Regional Airport Authority's Motion To Strike	10	160-162
First Amended Complaint	11	163-194
Notice Of Case Management Conference (4/20/07)	12	195
Notice Of Case Management Conference	13	196
Notice Of Motion And Motion To Strike Plaintiff's First Amended Complaint	14	197-232
Notice Of Hearing On Demurrer And Demurrer To Plaintiff's First Amended Complaint	15	233-235
Defendant San Diego County Regional Airport Authority's Demurrer To Plaintiff's First Amended Complaint	16	236-239
Memorandum Of Points And Authorities In Support Of Defendant San Diego County Regional Airport Authority's Demurrer To Plaintiff's First Amended Complaint And/Or Motion To Strike	17	240-260
Proof Of Service By Mail	18	261
Plaintiff's Opposition To Defendant San Diego County Regional Airport Authority's Demurrer And/Or Motion To Strike	19	262-274

1	Plaintiff's Opposition To Defendant San Diego County	20	275-277
2	Regional Airport Authority's Motion To Strike		
3	Second Amended Complaint	21	278-305
4	Reply Brief In Support Of Defendant San Diego County	22	306-314
5	Regional Airport Authority's Demurrer To Plaintiff's First		
6	Amended Complaint And/Or Motion To Strike		
7	Case Management Statement	23	315-319
8	Notice Of Motion And Motion To Strike Plaintiff's Second	24	320-345
9	Amended Complaint		
10	Memorandum Of Points And Authorities In Support Of	25	346-353
11	Defendant San Diego County Regional Airport Authority's		
12	Demurrer And Motion To Strike Plaintiff's Second		
13	Amended Complaint		
14	Notice Of Hearing On Demurrer And Demurrer To	26	354-355
15	Plaintiff's Second Amended Complaint		
16	Defendant San Diego County Regional Airport Authority's	27	356-357
17	Demurrer To Plaintiff's Second Amended Complaint		
18	Proof Of Service For #'S 24-27	28	358-359
19	Notice Of Rescheduled Hearing	29	360-362
20	Plaintiff's Opposition To Defendant San Diego County	30	363-376
21	Regional Airport Authority's Demurrer And / Or Motion To		
22	Strike Plaintiff's Second Amended Complaint		
23	Notice Of Rescheduled Hearing	31	377-379
24	Reply Brief In Support Of Defendant San Diego County	32	380-387
25	Regional Airport Authority's Demurrer To Plaintiff's		
26	Second Amended Complaint And/Or Motion To Strike		
27	Tentative Rulings	33	388
28	Disclosure By Judge Richard E. L. Strauss With Regard To	34	389-390
	The Participation Of The Law Firm Of Luce, Forward,		
	Hamilton, & Scripps In This Case		
	Notice Of Hearing (Trial Readiness Conference: 12/21/07)	35	391-393
	Notice Of Hearing (Civil Jury Trial: 1/4/08)	36	394-396
	Defendant San Diego County Regional Airport Authority's	37	397-400
	Answer To Plaintiff's Second Amended Complaint		
	Defendant San Diego County Regional Airport Authority's	38	401-409
	Notice Of Motion And Motion For Summary Judgment Or,		
	In The Alternative, Summary Adjudication		

1	Defendant San Diego County Regional Airport Authority's	39	410-432
2	Memorandum Of Points And Authorities In Support Of Its		
3	Motion For Summary Judgment Or, In The Alternative,		
4	Summary Adjudication		
5	Defendant San Diego County Regional Airport Authority's	40	433-450
6	Separate Statement Of Undisputed Material Facts In		
7	Support Of Motion For Summary Judgment Or, In The		
8	Alternative, Summary Adjudication		
9	Declaration Of Thella F. Bowens In Support Of Defendant	41	451-456
10	San Diego County Regional Airport Authority's Motion For		
11	Summary Judgment Or, In The Alternative, Summary		
12	Adjudication		
13	Declaration Of Mark Burchyett In Support Of Defendant	42	457-459
14	San Diego County Regional Airport Authority's Motion For		
15	Summary Judgment Or, In The Alternative, Summary		
16	Adjudication		
17	Declaration Of Bryan Enarson In Support Of Defendant San	43	460-464
18	Diego County Regional Airport Authority's Motion For		
19	Summary Judgment Or, In The Alternative, Summary		
20	Adjudication		
21	Declaration Of John Gamberzky In Support Of Defendant	44	465-467
22	San Diego County Regional Airport Authority's Motion For		
23	Summary Judgment Or, In The Alternative, Summary		
24	Adjudication		
25	Declaration Of Troy Ann Leech In Support Of Defendant	45	468-470
26	San Diego County Regional Airport Authority's Motion For		
27	Summary Judgment Or, In The Alternative, Summary		
28	Adjudication		
	Declaration Of Sandra L. McDonough In Support Of	46	471-475
	Defendant San Diego County Regional Airport Authority's		
	Motion For Summary Judgment Or, In The Alternative,		
	Summary Adjudication		
	Declaration Of Jim Prentice In Support Of Defendant San	47	476-478
	Diego County Regional Airport Authority's Motion For		
	Summary Judgment Or, In The Alternative, Summary		
	Adjudication		
	Declaration Of Tony Russell In Support Of Defendant San	48	479-481
	Diego County Regional Airport Authority's Motion For		
	Summary Judgment Or, In The Alternative, Summary		
	Adjudication		
	Declaration Of Theodore Sexton In Support Of Defendant	49	482-485
	San Diego County Regional Airport Authority's Motion For		
	Summary Judgment Or, In The Alternative, Summary		
	Adjudication		

1	Declaration Of Edward Patrick Swan, Jr. In Support Of	50	486-490
2	Defendant San Diego County Regional Airport Authority's		
3	Motion For Summary Judgment Or, In The Alternative,		
4	Summary Adjudication		
5	Declaration Of Jeffrey Woodson In Support Of Defendant	51	491-493
6	San Diego County Regional Airport Authority's Motion For		
7	Summary Judgment Or, In The Alternative, Summary		
8	Adjudication		
9	Defendant San Diego County Regional Airport Authority's	52	494-608
10	Notice Of Lodgment Of Non-California Authorities In		
11	Support Of Motion For Summary Judgment Or, In The		
12	Alternative, Summary Adjudication		
13	Defendant San Diego County Regional Airport Authority's	53	609-611 &
14	Notice Of Lodgment Of Exhibits In Support Of Motion For		611(1)-
15	Summary Judgment Or, In The Alternative, Summary		611(843)
16	Adjudication		
17	Defendant San Diego County Regional Airport Authority's	54	612-616
18	Notice Of Errata In Support Of Its Motion For Summary		
19	Judgment Or, In The Alternative, Summary Adjudication		
20	Defendant San Diego County Regional Airport Authority's	55	617-634
21	<u>Amended</u> Separate Statement Of Undisputed Material Facts		
22	In Support Of Motion For Summary Judgment Or, In The		
23	Alternative, Summary Adjudication		
24	Plaintiff Jose Hernandez' Memorandum Of Points And	56	635-660
25	Authorities In Opposition To Defendant San Diego County		
26	Regional Airport Authority's Motion For Summary		
27	Judgment Or, In The Alternative, Summary Adjudication		
28	Plaintiff Jose Hernandez' Opposition To Defendant San	57	661-687
	Diego County Regional Airport Authority's Amended		
	Separate Statement Of Undisputed Material Facts In		
	Support Of Motion For Summary Judgment Or, In The		
	Alternative, Summary Adjudication		
	Plaintiff Jose Hernandez' Separate Statement Of Additional	58	688-742
	Undisputed Facts In Opposition To Defendant San Diego		
	County Regional Airport Authority's Motion For Summary		
	Judgment Or, In The Alternative, Summary Adjudication		
	Declaration Of Plaintiff Jose Hernandez In Opposition To	59	743-748
	Defendant San Diego County Regional Airport Authority's		
	Motion For Summary Judgment Or, In The Alternative,		
	Summary Adjudication		
	Declaration Of Mike Parrish In Opposition To Defendant	60	749-750
	San Diego County Regional Airport Authority's Motion For		
	Summary Judgment Or, In The Alternative, Summary		
	Adjudication		

1	Declaration Of Cathryn Chinn In Opposition To Defendant	61	751-752
2	San Diego County Regional Airport Authority's Motion For		
3	Summary Judgment Or, In The Alternative, Summary		
4	Adjudication		
5	Declaration Of Janet Nix In Opposition To Defendant San	62	753-756
6	Diego County Regional Airport Authority's Motion For		
7	Summary Judgment Or, In The Alternative, Summary		
8	Adjudication		
9	Plaintiff Jose Hernandez' Notice Of Lodgment In	63	757-765
10	Opposition To Defendant San Diego County Regional		
11	Airport Authority's Motion For Summary Judgment Or, In		
12	The Alternative, Summary Adjudication		
13	Plaintiff Jose Hernandez' Compendium Of Federal Cases In	64	766-799
14	Opposition To Defendant San Diego County Regional		
15	Airport Authority's Motion For Summary Judgment Or, In		
16	The Alternative, Summary Adjudication		
17	Plaintiff Jose Hernandez' Written Objections To Evidence	65	800-808
18	In Opposition To Defendant San Diego County Regional		
19	Airport Authority's Motion For Summary Judgment Or, In		
20	The Alternative, Summary Adjudication		
21	Order On Plaintiff Jose Hernandez' Written Objections To	66	809-819
22	Evidence In Opposition To Defendant San Diego County		
23	Regional Airport Authority's Motion For Summary		
24	Judgment Or, In The Alternative, Summary Adjudication		
25	Plaintiff's Association Of Counsel	67	820-821
26	Defendant San Diego County Regional Airport Authority's	68	822-836
27	Reply Memorandum Of Points And Authorities In Support		
28	Of Its Motion For Summary Judgment Or, In The		
	Alternative, Summary Adjudication		
	Defendant San Diego County Regional Airport Authority's	69	837-910
	Opposition To Plaintiff's Separate Statement Of Additional		
	Undisputed Material Facts In Support Of Motion For		
	Summary Judgment Or, In The Alternative, Summary		
	Adjudication		
	Defendant San Diego County Regional Airport Authority's	70	911-944
	Concordance In Support Of Motion For Summary Judgment		
	Or, In The Alternative, Summary Adjudication		
	Defendant San Diego County Regional Airport Authority's	71	945-962
	Objection To Evidence Submitted By Plaintiff In		
	Opposition To Defendant's Motion For Summary Judgment		
	Or, In The Alternative, Summary Adjudication		
	Defendant San Diego County Regional Airport Authority's	72	963-978
	Response To Plaintiff Jose Hernandez' Written Objections		
	To Evidence In Opposition To Defendant's Motion For		
	Summary Judgment Or, In The Alternative, Summary		
	Adjudication		

1	Defendant San Diego County Regional Airport Authority's	73	979-1063
2	Notice Of Lodgment Of Non-California Authorities In		
3	Support Of Its Reply To The Motion For Summary		
4	Judgment Or, In The Alternative, Summary Adjudication		
5	Tentative Ruling On MSJ	74	1064
6	Notice Of Rescheduled Hearing	75	1065-1067
7	Notice Of Motion And Motion For Protective Order	76	1068-1071
8	Memorandum Of Points And Authorities In Support Of	77	1072-1076
9	Motion For Protective Order		
10	Declaration Of Edward Patrick Swan, Jr. In Support Of	78	1077-1078
11	Motion For Protective Order		
12	Declaration Of Lawrence J. Kouns In Support Of Motion	79	1079-1081
13	For Protective Order		
14	Notice Of Lodgment Re Motion For Protective Order	80	1082-1097
15	[Proposed] Order Granting Motion For Protective Order	81	1098
16	Defendant San Diego County Regional Airport Authority's	82	1099-1109
17	Supplemental Brief Regarding Government Code Section		
18	821.6 In Support Of Its Motion For Summary Judgment Or,		
19	In The Alternative, Summary Adjudication		
20	Plaintiff Jose Hernandez' Supplemental Memorandum Of	83	1110-1120
21	Points And Authorities In Opposition To Defendant San		
22	Diego County Regional Airport Authority's Motion For		
23	Summary Judgment Or, In The Alternative, Summary		
24	Adjudication		
25	Plaintiff Jose Hernandez' Compendium Of Foreign	84	1121-1196
26	Authority In Opposition To Defendant San Diego County		
27	Regional Airport Authority's Motion For Summary		
28	Judgment Or, In The Alternative, Summary Adjudication		
29	Plaintiff Jose Hernandez' Memorandum Of Points And	85	1197-1206
30	Authorities In Opposition To Third Party Edward P. Swan,		
31	Jr.'S Motion For Protective Order		
32	Plaintiff Jose Hernandez' Notice Of Lodgment In	86	1207-1243
33	Opposition To Third Party Edward P. Swan, Jr.'S Motion		
34	For Protective Order		
35	Notice Of Jury Fee Deposit	87	1244
36	Notice Of Jury Fee Deposit	88	1245
37			
38			

1	Declaration Of Cathryn Chinn In Opposition To Defendant	89	1246-1247
2	San Diego County Regional Airport Authority's Motion For		
3	Summary Judgment Or, In The Alternative, Summary		
4	Adjudication		
5	Defendant San Diego County Regional Airport Authority's	90	1248-1260
6	Reply In Support Of Its Supplemental Brief Regarding		
7	Government Code Section 821.6 In Support Of Its Motion		
8	For Summary Judgment Or, In The Alternative, Summary		
9	Adjudication		
10	Plaintiff Jose Hernandez' Objection To Defendant's	91	1261-1264
11	Supplemental Brief Re Government Code § 821.6 In		
12	Support Of Its Motion For Summary Judgment Or, In The		
13	Alternative, Summary Adjudication		
14	Notice Of Newly Published Case In Support Of Defendant	92	1265-1272
15	San Diego County Regional Airport Authority's Motion For		
16	Summary Judgment		
17	Reply Memorandum Of Points And Authorities In Support	93	1273-1283
18	Of Motion For Protective Order		
19	Tentative Ruling	94	1284
20	Third Amended Complaint	95	1285-1316
21	Defendant San Diego County Regional Airport Authority's	96	1317
22	Answer to Plaintiff's third Amended Complaint		
23			
24			
25			
26			
27			
28			

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11 **SAN DIEGO COUNTY REGIONAL AIRPORT**
AUTHORITY

12
13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF SAN DIEGO

15 JOSE HERNANDEZ,
16 Plaintiff,

17 v.

18 **SAN DIEGO COUNTY REGIONAL**
AIRPORT AUTHORITY, a public entity;
19 **and DOES 1 through 12, inclusive,**
20 Defendants.

CASE NO. GIC 871979

PROOF OF PERSONAL SERVICE

Dept:	75
Judge:	Hon. Richard E. Strauss
Complaint Filed:	September 1, 2006
Trial Date:	January 4, 2008

1 I, the undersigned, certify and declare that I am a citizen of the United States, over the age
2 of eighteen, employed in the County of San Diego, State of California, and not a party to the
3 within-entitled action. My business address is P.O. Box 3969, San Diego, CA 92163.

4 On January 30, 2008, I served a true copy of the within:

5 • **NOTICE TO ADVERSE PARTY OF REMOVAL TO FEDERAL COURT**
6 by delivering for personal service to the following:

7 Cathryn Chinn, Esq.
8 1901 First Avenue, Suite 400
9 San Diego, CA 92101
Tel: 619-295-4190 / Fax: 619-295-9529
Attorney for Plaintiff Jose Hernandez

10 I hereby certify that I am employed by CalExpress Messenger Service, San Diego,
11 California, at whose direction the personal service was made.

12 Executed January 30, 2008, at San Diego, California.

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15 DIVERSIFIED LEGAL SERVICES
16 MESSENGER
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